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SENATE BILL 416

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Mary Jane M Garcia

AN ACT

RELATING TO TAXATION; PROVIDING FOR AN INCOME TAX OR CORPORATE  
INCOME TAX CREDIT FOR CERTAIN FILM PRODUCTION EXPENDITURES MADE  
IN COUNTIES WITH MEDIAN HOUSEHOLD INCOMES BELOW FIFTY PERCENT  
OF THE STATE MEDIAN INCOME; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. REGIONAL FILM TAX CREDIT. --

A. The tax credit created by this section may be referred to as the "regional film tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to six percent of direct production expenditures:

(1) that are made in a county in New Mexico with a median household income below fifty percent of the state median income;

underscored material = new  
[bracketed material] = delete

1 (2) that are directly attributable to the  
2 production of a film in that county;

3 (3) that are subject to taxation by the state  
4 of New Mexico; and

5 (4) of which eighty-five percent are made to  
6 employ residents of that county.

7 B. The regional film tax credit shall not be  
8 claimed with respect to expenditures for which the film  
9 production company claiming the credit has delivered a  
10 nontaxable transaction certificate pursuant to Section 7-9-86  
11 NMSA 1978.

12 C. A long-form narrative film production for which  
13 the regional film tax credit is claimed shall contain an  
14 acknowledgment that the production was filmed in New Mexico and  
15 in the county for which the credit is claimed.

16 D. To be eligible for the regional film tax credit,  
17 a film production company shall submit to the New Mexico film  
18 division of the economic development department information  
19 required by the division to demonstrate conformity with the  
20 requirements of this section. The division shall determine the  
21 eligibility of the company and shall report this information to  
22 the taxation and revenue department in a manner and at times  
23 the economic development department and the taxation and  
24 revenue department shall agree upon.

25 E. To receive a regional film tax credit, a film

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1 production company shall apply to the taxation and revenue  
2 department on forms and in the manner the department may  
3 prescribe. The application shall include a certification in  
4 the amount of direct production expenditures made in accordance  
5 with this section with respect to the film production for which  
6 the film production company is seeking the regional film tax  
7 credit. If the requirements of this section have been complied  
8 with, the taxation and revenue department shall approve the  
9 regional film tax credit and issue a document granting the  
10 credit.

11 F. The film production company may apply for all or  
12 a portion of the regional film tax credit granted against  
13 personal income tax liability or corporate income tax  
14 liability. If the amount of the regional film tax credit  
15 claimed exceeds the film production company's tax liability for  
16 the taxable year in which the credit is being claimed, the  
17 excess shall be refunded.

18 G. For the purposes of this section:

19 (1) "direct production expenditure" means an  
20 expenditure used in the production of a film for:

- 21 (a) the cost of a story or scenario;
- 22 (b) wages or salaries for talent,  
23 management or labor paid to a resident of New Mexico;
- 24 (c) the cost of set construction and  
25 operations, wardrobe, accessories and related services;

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[bracketed material] = delete

- 1 (d) the cost of photography, sound  
2 synchronization, lighting and related services;
- 3 (e) the cost of editing and related  
4 services;
- 5 (f) rental of facilities and equipment;
- 6 (g) leasing of a vehicle;
- 7 (h) the cost of food or lodging;
- 8 (i) travel costs limited to airfare paid  
9 to a travel agency or travel company with its primary place of  
10 business in New Mexico;
- 11 (j) the cost of insurance and bonding  
12 paid to an insurance company with its primary place of business  
13 in New Mexico; and
- 14 (k) other direct costs of producing the  
15 film;
- 16 (2) "film" means a single media or multimedia  
17 program, including a national advertising message, that is  
18 fixed on film, videotape, computer disc, laser disc or other  
19 similar delivery medium, that can be viewed or reproduced and  
20 that is:
- 21 (a) exhibited in a theater;
- 22 (b) licensed for exhibition by a  
23 television station, network or other means; or
- 24 (c) licensed for the home viewing  
25 market; and

1 (3) "film production company" means a company  
2 that produces a film for exhibition in theaters, on television  
3 or elsewhere.

4 Section 2. APPLICABILITY.--The provisions of this act  
5 apply to taxable years beginning on or after January 1, 2005.

6 Section 3. EMERGENCY.--It is necessary for the public  
7 peace, health and safety that this act take effect immediately.

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